

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

GEORGE PROBY, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:14-cv-1620-JAR
	)	
TERRY RUSSELL, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff George Proby's Request for Subpoena (Doc. No. 75). In that filing, Plaintiff asks the Court to issue a subpoena for the video shown at Plaintiff's 2013 criminal trial in St. Francois County Circuit Court. Plaintiff reiterates the same request in his pleading entitled "Memorandum in Opposition to Defendants' Motion for Summary Judgment" (Doc. No. 82), which is in fact a sur-reply to Defendants' motion. Plaintiff alleges that the video currently in the record, which was submitted by Defendants, has been doctored in some way, or otherwise is inconsistent with the video shown at Plaintiff's criminal trial.

The Court will direct Defendants to submit the video evidence of record in Plaintiff's criminal trial, Case No. 13SF-CR00719, in order to compare it with the video currently in the record. Defendants may obtain the video from the clerk of St. Francois County Circuit Court, #1 N. Washington, Farmington, Missouri 63640. Alternatively, if the video shown at Plaintiff's trial is not available from the St. Francois County Circuit Court but is a part of the file kept by the Missouri Attorney General's Office ("AG"), the Court directs Defendants to obtain the video

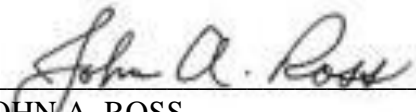
from the AG and file it with the Court. Defendants should also include an affidavit verifying that the video submitted is the same video as that shown at Plaintiff's criminal trial.

However, the Court will deny Plaintiff's additional demands in the Request for Subpoena, and will not order the trial transcript from Plaintiff's criminal trial to be produced. The Court is not convinced that, at this stage in the proceedings, the transcript of Plaintiff's criminal trial could in any way impact the legal issues presented in Plaintiff's instant claim, or the pending motion for summary judgment. The Court will reconsider the request should Plaintiff's case proceed past summary judgment.

### **CONCLUSION**

Accordingly,

**IT IS HEREBY ORDERED** that Defendants shall submit the video evidence of record in Plaintiff's criminal trial, Case No. 13SF-CR00719, **on or before June 26, 2016.**

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of June, 2016.